

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

LLOYD GEORGE MAXWELL,)	CASE NO. 4:05 CV 974
)	
Plaintiff,)	JUDGE PETER C. ECONOMUS
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
UNITED STATES DEPARTMENT OF)	<u>AND ORDER</u>
JUSTICE, et al.,)	
)	
Defendants.)	

On April 14, 2005, plaintiff pro se Lloyd George Maxwell filed this action against the United States Department of Justice, Mark Wills, R. Bailey, and C.I. John. The complaint seeks damages on the ground that Maxwell's 1993 prosecution and conviction in the federal court, for which he is currently incarcerated, was based on conspiracy, entrapment and racial discrimination. For the reasons stated below, this action is dismissed pursuant to 28 U.S.C. § 1915A.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes

that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167 , at *2 (6th Cir. Feb. 1, 2000).

The Supreme Court has held that, when a prisoner challenges "the very fact or duration of his physical imprisonment, ... his sole federal remedy is a writ of habeas corpus." Preiser v. Rodriguez, 411 U.S. 475, 501 (1973). Further, absent allegations that criminal proceedings terminated in plaintiff's favor or that a conviction stemming from the asserted violation of his rights was reversed, expunged by executive order, declared invalid by a state tribunal, or called into question by a federal court's issuance of a writ of habeas corpus, he may not recover damages for his claim. Heck v. Humphrey, 512 U.S. 477 (1994).

Accordingly, this action is dismissed under section 1915A. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

S/Peter C. Economus - 5/25/05
PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE